

By: Ellis, et al.

S.B. No. 100

Substitute the following for S.B. No. 100:

By: Elkins

C.S.S.B. No. 100

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to a security freeze on a consumer file maintained by a  
3 consumer reporting agency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 20.034(a), Business & Commerce Code, is  
6 amended to read as follows:

7 (a) On written request sent by certified mail that includes  
8 proper identification provided by a consumer [~~and a copy of a valid~~  
9 ~~police report, investigative report, or complaint made under~~  
10 ~~Section 32.51, Penal Code~~], a consumer reporting agency shall place  
11 a security freeze on a consumer's consumer file not later than the  
12 fifth business day after the date the agency receives the request.

13 SECTION 2. Section 20.0385, Business & Commerce Code, is  
14 amended to read as follows:

15 Sec. 20.0385. APPLICABILITY OF SECURITY ALERT AND SECURITY  
16 FREEZE. (a) The requirement under this chapter to place a security  
17 alert or security freeze on a consumer file does not apply to:

18 (1) a check service or fraud prevention service  
19 company that issues consumer reports:

20 (A) to prevent or investigate fraud; or

21 (B) for purposes of approving or processing  
22 negotiable instruments, electronic funds transfers, or similar  
23 methods of payment; or

24 (2) a deposit account information service company that

1 issues consumer reports related to account closures caused by  
2 fraud, substantial overdrafts, automated teller machine abuses, or  
3 similar negative information regarding a consumer to an inquiring  
4 financial institution for use by the financial institution only in  
5 reviewing a consumer request for a deposit account with that  
6 institution.

7 (b) The requirement under this chapter to place a security  
8 freeze on a consumer file does not apply to a consumer reporting  
9 agency that:

10 (1) acts only to resell credit information by  
11 assembling and merging information contained in a database of  
12 another consumer reporting agency or multiple consumer reporting  
13 agencies; and

14 (2) does not maintain a permanent database of credit  
15 information from which new consumer reports are produced.

16 SECTION 3. Section 20.04, Business & Commerce Code, is  
17 amended to read as follows:

18 Sec. 20.04. CHARGES FOR CERTAIN DISCLOSURES OR  
19 SERVICES. (a) Except as provided by Subsection (b), a consumer  
20 reporting agency may impose a reasonable charge on a consumer for  
21 the disclosure of information pertaining to the consumer or for  
22 placing a security freeze on a consumer file, temporarily lifting a  
23 security freeze for a designated period or for an identified  
24 requester, or removing a security freeze in accordance with this  
25 chapter. The amount of the charge for the disclosure of information  
26 pertaining to the consumer may not exceed \$8. The amount of the  
27 charge for placing a security freeze on a consumer file,

1 temporarily lifting a security freeze for a designated period, or  
2 removing a security freeze may not exceed \$10 per request. The  
3 amount of the charge for temporarily lifting a security freeze for  
4 an identified requester may not exceed \$12 per request. On January  
5 1 of each year, a consumer reporting agency may increase the charge  
6 for disclosure to a consumer or for placing, temporarily lifting,  
7 or removing a security freeze. The increase, if any, must be based  
8 proportionally on changes to the Consumer Price Index for All Urban  
9 Consumers as determined by the United States Department of Labor  
10 with fractional changes rounded to the nearest 50 cents.

11 (b) A consumer reporting agency may not charge a fee for:

12 (1) a request by a consumer for a copy of the  
13 consumer's file:

14 (A) made not later than the 60th day after the  
15 date on which adverse action is taken against the consumer; or

16 (B) made on the expiration of a 45-day security  
17 alert;

18 (2) notification of the deletion of information that  
19 is found to be inaccurate or can no longer be verified sent to a  
20 person designated by the consumer, as prescribed by Section 611 of  
21 the Fair Credit Reporting Act (15 U.S.C. Section 1681i), as  
22 amended;

23 (3) a set of instructions for understanding the  
24 information presented on the consumer report;

25 (4) a toll-free telephone number that consumers may  
26 call to obtain additional assistance concerning the consumer report  
27 or to request a security alert; [~~or~~]

1           (5) a request for a security alert made by a consumer;  
2 or  
3           (6) the placement, temporary lifting, or removal of a  
4 security freeze at the request of a consumer who has submitted to  
5 the consumer reporting agency a copy of a valid police report,  
6 investigative report, or complaint involving the alleged  
7 commission of an offense under Section 32.51, Penal Code.

8           SECTION 4. Section 20.037(e), Business & Commerce Code, is  
9 repealed.

10          SECTION 5. The change in law made by this Act applies only  
11 to a request for placement, removal, or temporary lifting of a  
12 security freeze on a consumer file that is made on or after the  
13 effective date of this Act. A request for placement, removal, or  
14 temporary lifting of a security freeze on a consumer file that is  
15 made before the effective date of this Act is governed by the law in  
16 effect on the date the request was made, and the former law is  
17 continued in effect for that purpose.

18          SECTION 6. This Act takes effect immediately if it receives  
19 a vote of two-thirds of all the members elected to each house, as  
20 provided by Section 39, Article III, Texas Constitution. If this  
21 Act does not receive the vote necessary for immediate effect, this  
22 Act takes effect September 1, 2005.